95-1587

Supreme Court, U.S.
FILED
APR 1 1996
CLERK

No. _____

IN THE
SUPREME COURT OF
THE UNITED STATES

OCTOBER TERM 1995

SALVATORE MORETTI,
Petitioner
- vs -

CITY OF HACKENSACK,
Respondent

ON PETITION FOR WRIT OF
CERTIORARI TO THE
SUPREME COURT OF NEW JERSEY

SALVATORE MORETTI, PRO SE
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

88 pp

QUESTONS PRESENTED FOR REVIEW

1. Has the City of Hackensack complied with the New Jersey Constitution, Article VIII, Section 1, paragraph 1, that all property shall be assessed for taxation under general laws and by uniform rules, or rather has the city discriminated against petitioner such that an unconstitutional taking has occurred?

2. Has the City of Hackensack violated petitioner's due process rights by first claiming that jurisdiction was not in the federal district court but rather in the state court system, then appearing in the state Tax Court claiming that jurisdiction was not in that court since the assessment had dipped from $766,000 to $733,000, then appearing at the Bergen County Tax Board claiming that petitioner was not entitled to his property record cards (when produced these cards showed that petitioner's single family house was assessed as a two-family), all of which have resulted in an attempt to accelerate the mortgage loan by the mortgagee?

3. Is the defendant Hackensack guilty of inverse discrimination in that while not bringing suit it has re-zoned petitioner's property into idleness?

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HACKENSACK'S UNCONSTITUTIONALLY HIGH ASSESSMENT HAS RESULTED IN A TAKING, FOR WHICH NO RECOMPENSE HAS BEEN RECEIVED, NOR ANY OFFERED.

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JUDGMENTS SOUGHT TO BE REVIEWED

1. Denial of Petition for Certiorari by the New Jersey Supreme Court on January 4, 1996, Case No. 41,120, Salvatore Moretti v. City of Hackensack (App. 1).

2. Dismissal of Appeal by the New Jersey Appellate Division, August 30, 1995, Salvatore Moretti v. City of Hackensack, Docket No. A-4913-94T2 (App. 2).

3. Dismissal of Complaint with prejudice by the New Jersey Tax Court, docket No. 8336-93, on February 7, 1995. (App. 3)

JURISDICTION

Jurisdiction is sought pursuant to 28 U. S. C. Section 1257. Appeal is from denial of Petition for Certiorari by the New Jersey Supreme Court on January 2, 1996, Case No. 41,120, Salvatore Moretti v. City of Hackensack

PARTIES TO THE DISPUTE

The parties to the dispute are named in the caption.

THE SUBJECT LAWSUIT PRESENTS QUESTIONS OF CONSTITUTIONAL SIGNIFICANCE.

Petitioner is a property owner of several decades whose on site work has been treated as non-compensable by the defendant. This is a violation of his rights and of those similarly situated. Those similarly situated consitutes a large percentage of the property owners in this municipality. A significant number of properties are listed for foreclosure sales by the Bergen county sheriff. Despite submitting over 950 pages of factual material to the trial court below, there has been no action taken either by the trial court or upon appeal.

STATEMENT OF THE CASE

Petitioner operates a twenty family garden apartment house on a 186 by 150 foot parcel (Block 418, Lot 22-23, and Lot 24), from an office located at 390 Park Street, Hackensack, Block 415, Lot 8.b. Hackensack's ad valorem assessment of Lots 22 and 23 was $792,000 in 1991 when petitioner filed his tax appeal in the Bergen county tax board, which decreased the assessment to $766,000 on Feb. 2, 1992 (App. 64); even with the reduction the assessment is above the tax court jurisdictional limit of $750,000 for direct appeal to that court. The meager reduction resulted in appeal to the federal district court of a panoply of issues; that court dismissed - 92-4206 (HAA) - claiming the state had jurisdiction in such disputes.

Petitioner immediately filed in the New Jersey Tax Court on March 31, 1993 (App. 70). When direct appeal is allowed, so too is appeal of the contiguous parcel under the same ownership (in this case, the adjoining vacant lot, Block 418, Lot 24, assessed at over $110,000 was included in the appeal). That court dismissed for want of jurisdiction on February 7, 1994 (App. 3).

Petitioner provides heat and hot water to tenants (1995 fuel oil bills equaled $8,262. Petitioner provides water also, (in 1994 and 1995 petitioner paid $9,700 per year).

Despite tax appeals in 1976-1981, Hackensack boosted

his assessment in 1987 from $295,000 to $795,000 on lots 22 and 23. A $4,400 per month decline in rents collected between February 1991 and February 1992 reflect tenant defaults. Contract rents were not collectible. The water was shut off during litigation on that issue due to "non-payment" of an unexpected increase in water bills (despite vacancies). Simultaneously condominium units on the block were sold at Sheriff's sales for $100 or nominal prices, though assessed at $65,000 per unit. A new seventy-two unit apartment house (assessed for over three million dollars) across the street was sold back to the original owner for no consideration, suggesting the second owner had lost his entire equity after five years of management. A car dealership went bankrupt after twenty-five years of operation when a buy-back option for triple the one million dollar purchase price could not be met. The new owner was then given a variance despite four years under his ownership when he fell in tax arrears $116,000.

An appraisal relied upon by Hackensack in 1981 improperly compared petitioner's building to high-rise apartment property. When Hackensack provided real property record cards, it was discovered that petitioner's one family house at Block 415, Lot 8.b was assessed as a two family. (pp. 51). Petitioner was arrested in his own house by Hackensack in September, 1995 (App. 57), suggesting bad faith.

POINT ONE

HACKENSACK'S UNCONSITUTIONALLY HIGH ASSESSMENT HAS RESULTED IN A TAKING, FOR WHICH NO RECOMMPENSE HAS BEEN RECEIVED, NOR ANY OFFERED.

When petitioner appeared before Hackensack municipal judge Dinice, the magistrate suggested appointing a receiver to take charge of petitioner's property interests. In fact, he high assessment of ad valorem taxes acts as just such a take-over without judicial oversight.

Improper appraisal of real estate is considered in "Appraisal Fraud and How It Works", 108 Banking Law Journal, 144 March/April, 1991 The article is also contained in Distressed Real Estate Chapter 27D published in 1991 by Warren, Gorham, and Lamont, Inc., 210 South Street, Boston, Ma.]. Deceptive practices in the appraisal of real estate are considered at p. 27D-10 as follows:

a. assuming the site will be rezoned.
b. assuming 95% occupancy
g. assuming that the client's statements are correct.4

The article indicates that a fiducary relationship exists in the appraisal process. It states that "an appraiser would be remiss to fail to mention a faltering local economy or high vacancies, falling rents, and costly tenant concessions in the subject property's market. The defendant Hackensack is guilty of all of the above errors.

As to working conditions on site, consider that since it has been impossible to hire responsible superintendants to work at this location. As a result, petitioner has worked there himself, even without pay.

When petitioner was standing in front of his apartment house speaking to a tenant, they were approached by a man who drove up in a car. This man's actions were subject of a police report, marked P-8 for identification during the deposition of an eyewitness. The police case number was 9315372, dated Saturday, June 19, 1993 at 6:43 p.m., location 391 Park Street, Hackensack. The nervousness of the deposed witness stems from the fact that he testified he was chased by a man with a baseball bat, and that he had sustained physical injuries treated at Urgent Care Medical Center (report marked P-9).

Question. At p. 32. When Mr. "A" exited from the automobile, did he say anything to you or to me?
Answer: Well, all he said is he went inside his trunk and says he was getting a gun..."

At Deposition p. 34:
Answer.: "...he was jumping on me and you was trying to stop him...and you said we should run inside the house and call the cops and that's what we did." At trial the deponent was unable to appear since he had been assaulted on these two dates as well just prior to trial in the case, as evidenced by additional visits to emergency medical facilities.

Other tenants are less brave. They rely upon the habitability defense enunciated in Marini v. Ireland, 56 N. J. 130 (1970) The defendant Hackensack has notified petitioner that tenants have parked unregistered cars on site. Other leasehold violations include damaging the plumbing, affixing bicycles to railings, changing locks, distributing garbage in the building and outside the building, and so forth.

The fact that Hackensack has not filed eminent domain proceedings suggests that it would have lost such a case in court. If it appeared in a bankruptcy proceeding municipal taxes only rank sixth under the bankruptcy code, behind unpaid salaries and administration fees. Operating as it does is inexpensive to it but costly to petitioner. Hackensack has filed a municipal lien due to $750 which it has paid the Hackensack Water Co. due to excessive water charges.

In re Garsal Realty, Inc 39 B.R. 991 (D.C. 1984) involves a chapter 11 debtor in New York state. The opinion notes at . 992 "Garsal is the owner of a large apartment complex valued in excess of $750,000. Respondent Troy Savings Bank holds the first mortgage on the complex. In April, 1979 Garsal was in default of its mortgage payments and the Bank exercised its right to accelerate the loan. [Fn. Garsal contends that it was only $4,838.96 in default when the Bank accelerated its demand for the entire principal. The Bank contents that Garsal was $12,447.60 in default]. This case is apposite, in that the Bank of New York attempted to accelerate its loan, which

attempt has been resisted by petitioner. Garsal involved a principal balance of $544,159.44; Garsal chose bankruptcy protection. Subsequently it mortgaged its real estate for a higher amount resulting in the loss of its equity at a later time.

CONCLUSION

Based upon the extensive materials set forth for the state court system, which may be called upon for review in support of this petition (a selection of which having been set forth in the appended materials), petitioner prays for the .granting of certification in the case presented.

Date: March 27, 1996

Submitted by: Salvatore Moretti, Petitioner
390 Park Street
Hackensack, New Jersey 07601
(201) 646-1414

App. 1

Denial of Petition. for Certiorari by the N. J. Supreme Court, January 4, 1996

SUPREME COURT OF NEW JERSEY

C-406 September Term 1995

41,120

SALVATORE MORETTI,
Plaintiff-Petitioner,
v.
CITY OF HACKENSACK,
Defendant-Respondent.

ON PETITIONER FOR CERTIFICATION

FILED
JAN 4 1996
Stephen W. Townsend
Clerk

To the Appellate Division, Superior Court:

A Petition for certification of the judgment in A-4913-94 having been submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied, with costs.

WITNESS, the Honorable Robert N. Wilentz, Chief Justice, at Trenton, this 2nd day of January, 1996.

Stephen W. Townsend
CLERK OF THE SUPREME COURT

App. 2

Dismissal of Appeal to the Appellate Division, State Court Aug. 30, 1995

Superior Court of New Jersey
Appellate Division Docket N. A-004913-94T2

Salvatore Moretti)
vs.) ORDER DISMISSNG APPEAL
City of Hackensack)
)

FILED APPELLATE
DIVISON, AUG 30, 1995
Emille R. Cox, Clerk

This matter being opened to the Court on its own motion and it appearing that the appellant has failed to prosecute the appeal;

It is HEREBY ORDERED that the above appeal is dismissed.

WITNESS, the Honorable Herman D. Michels, Presiding Judge for Administration, at Trenton, this 30 day of August, 1995.

Emille R. Cox
Clerk of the Appellate Division

App. 3

Dismissal by Trial Court, N. J. Tax Court, Feb. 7, 1995

Donald J. Lenner, Esq.
286 Union Street
Hackensack, N. J. (01) 343-6660
Attorney for Defendant

Salvatore Moretti,
Plaintiff

v.

City of Hackensack,
Defendant

TAX COURT OF NEW JERSEY
DOCKET NO. 008336-93

ORDER DISMISSING COMPLAINT WITH PREJUDICE

Final Judgment under R. 8:9-1

THIS MATTER being opened to the Court on the application of Donald J. Lenner, Esq., attorney for Defendant, and the Plaintiff having appeared Pro Se, and the Court having considered the papers filed and the arguments of counsel for the Defendant and of the Plaintiff Pro Se, and it being the finding of the Court that there was a failure of the Plaintiff to exhaust his administrative remedies and meet the jurisdictional requirements of N.J.S.A. 54:3-21 for a direct appeal to the Tax Court; that the litigation history does not excuse the Plaintiff's failure to timely file a complaint with the Tax Court for the tax year 1991 or timely file a complaint with either the county board of taxation or the Tax Court for the tax year 1992; and for good cause shown,

IT IS on this 7th day of February, 1994,

ORDERED THAT the complaint in the above matter is hereby dismissed with prejudice.

(s) Peter D. Pizzuto, Judge Tax Court

App. 3.1

Salvatore Moretti
390 Park Street
Hackensack, New Jersey 07601
(201) 646-1414

March 26, 1996

Supreme Court of New Jersey
Hughes Justice Complex
25 West Market Street
Trenton, New Jersey 08625

re: Salvatore Moretti v. City of Hackensack, Case No. 41,120. Notice of Appeal. On Appeal from the Appellate Division Case Docket No. A4913-94-T2

Dear Clerk of the Court;

Notice is hereby given that the undersigned plaintiff in the above captioned action is filing an appeal with the United States Supreme Court.

The Petition for Certification to the New Jersey Supreme Court case was dismissed January 2, 1996.

By copy of this letter, notice is served upon the defendant City of Hackensack.

Very truly,
(s) Salvatore Moretti
cc: Donald Lenner, Esq.

App. 4

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

February 14, 1995

Hon. Harold A. Ackerman, J.U. S. D. C.
United States District Court
U. S. Federal Courthouse & Post Office Building
Newark, New Jersey 07102
re: Salvatore Moretti v. City of Hackensack, et al., Civil Action No. 92-4206 (HAA)

Dear Judge Ackerman

On June 21, 1993, Your Honor entered an order dismissing the above captioned lawsuit. The basis for your dismissal of the action against the City of Hackensack was that there were remedies in the state court system. Your exact words follow:

"Moretti also alleged that the Council conspired to fix the assessed value of his property in excess of its actual value, thereby depriving him of his ownership rights. This court is barred from hearing this claim, however, for lack of subject matter jurisdiction. [Although the factual allegations set forth in this count refer to unidentified 'defendants,' the demand for relief contained in this names only the City Council. In either case, however, the claim must be dismissed because this court lacks subject matter jurisdiction.]

The Tax Injunction Act ("Act") provides that:

[t]he district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax where a plain, speedy and efficient remedy may be had in the court of such State. 28 U.S.C. Section 1341. The principal purpose of the Act is to limit federal court interference with local tax matters. Hardwick v. Cuomo, 891 F.2d 1097, 1104 (3d Cir. 1989) (citing California v. Grace Brethren Church, 457 U.S. 393, 411 (1982)). The United States Supreme Court has interpreted this statute as prohibiting federal courts from granting injunctive relief, see Rosewell v. LaSalle National Bank, 450 U.S. t03, 522 (1981), as well as declaratory relief, see California v. Grace Brethrewn Church, 457 U.S. 393, 408-11 (1982), as long as there is a "plain, speedy and efficient remedy" available in state court.

Both the Supreme Court and the Third Circuit have declined
to rule on whether the Tax Injunction Act bar actions for monetary daamages. See Fair Assessment in Real Estate Association v. McNary, 454 U.S. 100 (1981); see also Hardwick v. Cuomo, 891 F. 2d. 1097, 1104 (3d Cir. 1989) (comity supplements Tax Injunction when only money damaages are sought).

In Fair Assessment, the Court held that there is "no significant difference" between the "plain, speedy and efficient" standard under the Tax Injunction Act and the

"plain, adequate, and complete" standard governing comity. 454 U.S. at 116 n. 8. The "plain, speedy and efficient" remedy requirement is to be construed narrowly. Sipe, 689 F2d. at 4-4
(quoting Grace Brethren, 457 U.S. at 413). A state remedy is
deemed adequate if it satisfied certain procedural criteria. Behe v. Chester County Bd. of Assessment Appeals, 952 F 2d. 66, 68 (3d Cir. 1991)(citing Rosewell, 450 U.S. at 512).

Specifically, the state remedy is sufficient if it "'provides the taxpayer with a 'full hearing and judicial determination at which [the taxpayer] may raise any and all constitutional objections.'" Hardwick, 891 F. 2d at 1105 (quoting Grace Brethren, 457 U.S. at 412).

New Jersey provides several remedies which afford the plaintiff an opportunity to raise all constitutional objections to the allegedly wrongful property assessment. For example, N.J.S.A. 54:3-21 also provides that if the assessed value of property exceeeds $750,000. the taxpayer may file a complaint direcly with the tax court.] If a party is dissatisfied with the county board's determination, he or she may seek judicial review of the determination by filing a complaint in the tax court. N.J.S.A. 54:51A-1. Thus, New Jersey law provides for an administrative determination, as well as judicial review of that determination.

A taxpayer, moreover, is not limited to this review

procedure. New Jersey also has a statute providing for declaratory judgment actions. See N.J.S.A. 2A:16-53. See Sipe, 689 F. 2d at 405. Finally, a plaintiff may bring a Section 1983 action in state court. See Peper v. Princeton University Board of Tructees, 77 N.J. 55, 74 (1978) (New Jersey courts have the jurisdiction to interpret federal statutes and decide federal claims); see, e.g. Timber Properties, Inc. v. Chester Township, 205 N.J.
Super. 273 (Law Div. 1985)(Section 1983 action). New Jersey, therefore, provides sufficient remedies affording plaintiff the opportunity to raise any constitutional objections to the real property tax assessment. See Fair Assessment, 454 U.S. at 116-17 (availability of state court Section 1983 action supports withholding of federal jurisdiction); Long Island Lighting Co. v. Town oi Brookhaven, 889 F. 2d 428, 432 (2d Cir. 1989)(same); Sipte, 689 F.2d at 405-08(adequate remedy where state court has jurisdiction to decide federal claims). Because New Jersey provides a plain, complete and adequate remedy, this court lacks jurisdiction over any claim regarding the allegedly wrongful property value...For all these reasons, the claims against the City Council will be dismissed."

Even before your final written decision, after Hackensack conceded jurisdiction in the state Tax Court, I filed in that court. Hackensack pursued remedy in that court until the "thirtenth hour, (November, 1994), when after conducting discovery for eleven months, it claimed there was no jurisdiction in the State Tax Court. In fact,

pursuant to the order to dismiss for lack of jurisdiction drafted by the city, that court entered an order to dismiss on February 7, 1995, leaving me with no state remedies.

Under these circumstances, I am providing to the court a summary of the materials submitted to the state tax court, and request a hearing to determine whether your Honor will re-open the above captioned case for decision on the merits.

Very truly,
Salvatore Moretti
enc.
cc: Scott Topolski, Esq. (Behalf of Hackensack, Federal Court)
Donald Lenner, Esq. (Behalf of Hackensack, State Court)

App. 8

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646 - 1414

February 11, 1995

Margaret M. Richardson
Department of the Treasury
Internal Revenue Service
Commissioner of Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224
Tel No. (202)622-5000

re: Interpretation of Unconstitutional Assessment of Real Property by Local Property Tax Bureau Preventing the reporting of f4ederal income. SSN xxx-xx-xxxx..

Dear Ms. Richardson:

I work in residential property maintenance, and I have been
denied income due to an unconstitutionally high real property assessment on apartment property located at 391-397 Park Street, Hackensack (a 20 unit building).

I have contacted the Internal Revenue Service but have been unsuccessful in discovering what your position is in such cases. I note the following letter ruling:

Apartment Complex Manager

"Where the worker is hired to perform managerial services over property operated by the firm including renting apartments, collecting rent, overseeing apartment cleaning and repairs, and where the worker receives instructions in the way the work is to be done, is subject to supervision and review daily by a property supervisor and submits daily and weekly reports, the worker is an employee. The firm also furnished all of the necessary office supplies and equipment needed by the worker. The worker was eligible for paid vacation. Either the firm or the worker could terminate the agreement for services at any time without incurring a liability." [Ltr. ruling 8639049(June 30, 1986).]

Appeal to the county tax board and state tax court have proven useless. It has been discovered that a newly built adjacent (370 Park Street) 72 unit apartment house experienced similar problems when it was sold due to bankruptcy. Also a sixty unit condominium (281 Park Street) was sold in a bankruptcy sale. It is apparent now why I have not been paid - there is little desire to assess property fairly when the Sheriff can sell two dozen $65,000 condos to banks for $100 per condo.

The apartment house I work for has had so many evictions that its $500,000 assessment increase was unjustified. Tenants cannot pay high rents, particularly when neighborhood boards are looking for block grants,

and developers want to make speculative profits.

Each year I must report zero income on my Federal 1040 Tax Form. Considering that I qualify under the above letter ruling, this should not be so. There is no possible appeal to the state, which is collecting a huge bonus - double taxation, taxation on the real estate and "my" salary. There is no appeal to the municipality, which would face a large tax loss. If Hackensack benefited from use of its tax dollars, there might be some compensating principle, but here the city has the highest crime rate in the county, ten times higher than any nearby municipality.

Although federal minimum wage guidelines are near $5.00 per hour, wages in this case are zero for work which requires over forty hours per week. Accountants in this county frequently consider apartments as producing zero net income, but in this case there are no wages as well as no business income, due to problem tenants, breakage, vandalism, drugs, high turn-over rates, etc. After years of working in this industry, I am concerned that the failure to report wages jeopardizes my ability to claim social security benefits and other federal protections. Old age may force retirement. The loss by the federal government must be staggering. The use of local tax dollars does not solve local social problems, but only leads to unemployment, since local politicians view the unemployed as not their problem.

I have tried to report income several times, but this resulted in my having to send for a tax refund. The local

judge even threw the management in jail for failure to keep up water payments, even though there was only $0.45 in the bank to pay a $10,000 water bill.

I submit that the local tax is being treated as a federal tax - the only tax. There is no thought to wages (or their reporting to the federal government), or to federal responsibilities. Please advise whether you consider this cause of under-reporting illegal. Please advise immediately.

Very truly,

Salvatore Moretti

Certified Mail, No. P 325 541 773, Return Receipt Requested

App. 12

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

Febuary 10, 1995

Hon. Ariel Rodriguez, J.A.D.
Brennan Courthouse
583 Newark Avenue
Jersey City N. J. 07306

Hon. Geoffrey Gaulkin, J.A.D.
Brennan Counthouse
583 Newark Avenue
Jersey City, N. J. 07306

Re: Salvatore Moretti v. City of Hackensack, Trial Court Docket No. Tax Court No. 8336-93; Parcel One - Block 418, Lots 22 and 23. Twenty Unit Apartment House, 1991 Assessment Equals $792,300; Parcel Two - Block 418, Lot 24, Adjacent Parking Lot, 1991 Assessment Equals $135,700; Parcel Three: Apartment House's Office - 1991 Assessment Equals 130,000. Appellate Division No. ___

Dear Judges Rodriguez & Gaulkin:

Plaintiff-Appellant operates a residential apartment house of twenty apartments. The tenants therein are all in danger of being evicted, in that over twenty five evictions have occurred due to high rents reflecting a half-million dollar increase in the assessment of plaintiff's real property. The City has not only resisted plaintiff's appeal in the federal district court, it has delayed by refusing to answer interrogatories in that court, claiming only the

state has jurisdiction in tax matters.

. When plaintiff filed his complaint with the New Jersey Tax Court, that court docketed the case, and the city through Mr. Donald Lenner Esq. served interrogatories, (reflecting the decision of the federal court to proceed to the state tax court).

For the first time in November, 1994, the city changed its position, claiming that the tax court lacked jurisdiction, since the $750,000 jurisdictional bar prevented hearing the complaint. This position is yet another attempt to delay resolution of this case and receive interim relief. Plaintiff's tenants are not able to pay an exorbitant $21,000 water bill nor pay the taxes associated with the $500,000 real estate assessment increase.

For the foregoing reasons plaintiff-appellant is applying for emergent relief to require the state tax court to hear the appeal which has been duly filed with it. Should that court fail to hear this case forthwith, there is imminent danger of numerous evictions with tenants permanently loosing their apartments.

Plaintiff-appellant is enclosing the cover letters delivered to the State Tax Court which introduce the 625 page report), plus the following attachment: Tax Board Judgment Appeal #445; garbage compactor in Multi-Pak factory adjacent to apartment house; machines to produce compactor; former halfway house (387 Park St), now vacant lot parcel two, with apt. bldg. in background;

three photos of Gutterman-Musicant funeral line-ups on Park St., Hackensack; top is 370 Park St. 72 units - Cocoziello to Alster, bottom is 281 Park St. (60 units) - condos sold by sheriff; four pages of Mason appraisal; finally, interior of 387 Park St., prior to demolition.

Judge Rodriguez states that he is no longer on emergent duty, but these documents should be delivered to Judge Gaulkin.
Very truly,

_____

Salvatore Moretti,
Plaintiff-Appellant Pro Se

enc.

cc.: Mr. Donald Lenner, Esq.
286 Union Street
Hackensack, New Jersey 07601

App. 14
Brief Filed in New Jersey Supreme Court, Sept. 28, 1995

IN THE NEW JERSEY SUPREME COURT

SALVATORE MORETTI v. CITY OF HACKENSACK

Docket No. 41,120
Appellate Division No. A-4913-94
Trial Court No. 8336-93

STATEMENT OF SUBJECT MATTER INVOLVED

Petitioner appealed his real estate taxes claiming a tripling of his assessment (which increased $500,000 from $295,000 to $792,000 due to revaluation in 1987), a one thousand percent increase in water costs, and rent losses and evictions. This constituted an emergency requiring immediate relief. He was met with procedural objections at the Bergen County Tax Board, the Federal District Court, and the New Jersey Tax Court.

The Federal District Court deferred to the state for the relief sought, with the defendant municipality claiming that the state would provide the proper forum.

The revaluation company was so careless it claimed petitioner's one family house was a two family, and assessed it accordingly. The City of Hackensack changed law firms; its new attorney, Donald Lenner, Esq. no longer felt obligated to respect the agreement reached in federal district court, and now sought dismissal in the state Tax Court for want of jurisdiction.

Upon appeal, the Appellate Division dismissed due to lack of prosecution after the city failed to submit a reply brief. The city claimed that a transcript was missing from a hearing. Yet

further delays occurred on September 1, 1995, when the city failed to offer testimony before the Bergen County Tax Board against petitioner, calling into question the city's only defense - that sworn testimony existed in the assessor's office which proved the high assessment was justified. Since the property tax involves assessment of residential income property, the assessment results in burdensome evictions, high management costs, and even jail for tenants seeking to pay unaffordable rents.

QUESTIONS PRESENTED

Can the taxing authority violate petitioner's constitutional rights by assessing him on the basis of uncompensated personal services? Can the taxing authority jail petitioner and his tenants, and thereby escape legitimate inquiry into the true assessment of petitioner's property? This apartment house property is burdened by locational obsolescence - mixed uses include two funeral parlors, a garbage compactor factory, and a gas station. Has petitioner borne his burden of proof in the trial courts below, such that the procedural objections advanced constitute an abuse of process? Have the federal tax laws been violated, in that petitioner has been deprived of his property interests? Has not petitioner been converted into an unwilling employee of the city, which dictates the details of his employment, yet neither offers compensation nor pays benefits?

ERRORS COMPLAINED OF IN THE COURTS BELOW

The city's switch in legal representation from Scott Topolski, Esq. in the federal district court to Donald Lenner, Esq. in the New Jersey Tax Court has resulted in a delay of over three years. When the city had an opportunity to present the municipal tax assessor to be cross-examined in the state tax court, it failed to produce him. No testimony was offered, and no case put on. When the assessor finally appeared before the Bergen County Tax Board on September 1, 1995, he refused to

provide copies of the property records cards, and refused to testify.

REASON WHY CERTIFICATION SHOULD BE GRANTED

Certification should be granted because the issues involve human dilemmas the state is obligated to address. The city seeks to minimize the gravity of its actions, which have resulted in high litigation costs over a period of twenty years. Petitioner's lawyer was disbarred in the interim. Petitioner graduated from law school and has continued the struggle for a just resolution of the dispute. The issues within form the basis of housing inequities in our society. While our society guarantees all a decent place to live, Hackensack's actions suggest many shall be denied good quality low cost housing under the rule of law. This must be corrected by the grant of certification.

PROCEDURAL HISTORY

On August 15, 1991, petitioner filed a real estate tax appeal with the Bergen County Tax Board, Appeal No. 445, seeking reduction of taxes charged by respondent City of Hackensack on property located at 391-397 Park Street (Block 418, Lots 22 and 23) in Hackensack, New Jersey. Said property consists of a twenty unit apartment house with one bedroom, three room units. On February 20, 1992, the county tax board reduced the assessment (due to locational obsolescence) from $792,300 to $766,800.

Petitioner, perceiving many irregularities, filed a civil rights action under 42 U.S.C. Section 1983 (etc.) in the United States District Court on October 6, 1992, docketed 92-4206 (HAA).[SALVATORE MORETTI v. MAYOR JOHN ZISA AND THE HACKENSACK CITY COUNCIL; GEORGE DIANA AND THE HACKENSACK BOARD OF ADJUSTMENT; PATRICIA FARLIE AND THE HACKENSACK HEALTH DEPARTMENT; RICHARD

CARUCCI AND THE HACKENSACK FIRE DEPARTMENT; C. MORRISSEY AND THE HACKENSACK POLICE DEPARTMENT; HENRY AMOROSO - HACKENSACK PROSECUTOR; THE HACKENSACK WATER CO.; G. THOMAS GENTILE; AND GUTTERMAN-MUCICANT,INC. That complaint at the first page alleges the "state courts have excluded the federal actions through too narrow a view of federal justiciability requirements. Plaintiff is the record property owner of a 20 unit apartment house at 391-7 Park Street...the annual Hackensack real estate taxes are $24,897.71." The defendants included city agencies as well as adjacent businesses which conflicted with petitioner's residential use district, R-3B.

Petitioner sought damages for water shut offs, excessive water charges, and numerous conflicts which reduced real estate values. The defendants immediately filed motions to dismiss. and the court scheduled a hearing for December 4, 1992. On January 21, 1993, a scheduling order was entered which stated "all counsel having represented that certain dispositive motions are to be filed and served on behalf of all defendants. and for good cause shown, IT IS on this 20th day of January, 1993 ORDERED as follows: 1. All defense motions to dismiss plaintff's Complaint shall be filed and served on or before February 5, 1993. 2. All discovery shall be stayed pending the disposition of said motions... 5. A copy of this Order shall be served upon all parties within 7 days hereof. (s) Stanley R. Chesler, U. S. Magistrate Judge. On May 6, 1993 Judge Harold A. Ackerman granted the defendants' motions to dismiss under Fed. R. Civ. P. 12(b). On page 14 of the opinion accompanying that order Judge Ackerman dismissed the claims of an excessive assessment for lack of subject matter jurisdiction, as follows:

"Although plaintiff asserts that the City of Hackensack has improperly assessed the true value of his property, thus depriving him of ownership of the property without due process of law, he, nevertheless, fails to note that a federal court is not the proper forum to object to such an assessment of real property. New Jersey law does specifically provide for state administrative and judicial access and remedies. N.J.S.A. 54:3-21 states: 'A taxpayer feeling aggrieved by the assessed valuation of his property, or feeling that he is discriminated against by the assessed valuation of other property in the county, or a taxing district which may feel discriminated against by the assessed valuation of property in the taxing district, or by the assessed valuation of property in another taxing district in the county, may on or before April 1 appeal to the county board of taxation by filing with it a petition of appeal: provided, however, that any such taxpayer or taxing district may, on or before April 1, file a complaint directly with the tax court, if the assessed valuation of the property subject to the appeal exceeds $750,000. A taxpayer shall have forty-five (45) days to file an appeal upon the issuance of a notification of a change in assessment. All appeals to the tax court hereunder shall be in accordance with the provisions of the State Tax Uniform Procedure law, R.S. 54:48-1 et seq.'

Even prior to the issuance of the opinion, petitoner filed an appeal with the New Jersey Tax Court on March 31, 1993 (note chronology set forth at Appellate Divisiion Appendix, Pa. 294; based upon the City of Hackensack's claim in its motion papers that jurisdiction lay in the Tax Court. The appeal was docketed

No. 8336-93. The Tax Court dismissed on February 7, 1995 (Appellate Div. Appendix Pa 1).

Petitioner appealed to the Appellate Division on February 7, 1995 (Appellate Division Pa. 2). The Appellate Division dismissed on August 30, 1995 (Supreme Ct. App. 2a).

Petitioner appealed to the New Jersey Supreme Court on September 19, 1995 (Supreme Ct. App. 4a).

FACTUAL HISTORY

Petitioner incorporates by reference the factual history set forth in his brief (pp. 12-16) to the Appellate Division.

LEGAL ARGUMENT IN SUPPORT OF GRANTING THE PETITION

The most persuasive approach to true value of the subject apartment house property is the income approach. See Helmsley v. Fort Lee Bor., 78 N. J. 200, 394 A. 2d. 65 (1978), app. dism. 440 U. S. 978, 99 S. Ct. 1782, 60 L. Ed. 2d 237 (1979).

Despite the three years history of tax appeals, the city of Hackensack has failed to offer any sworn testimony to dispute petitioner's contention that the true value of his apartment house is $205,000 (Appellate App. Pa 64). This means assessed value is triple true value.

Petitioner disputes that the highest and best use for the subject property is garden apartments, since Hackensack has changed the zoning over the years to allow in funeral uses, psychiatric halfway houses, boarding houses, and intensive factory uses; it has failed to protect against illegal parking and numerous other incidents of urban blight (including arson).

In face of decreased income, petitioner has been required to devote his own time to maintenance since employees would not perform the services demanded by the city. Municipal hearngs on water shut-offs, code violations, and extermination have abounded. Evictions are continuous. Excessive insurance is evident.

The complained of practices have converted an income producing property into an uncompensated job. The city is not independent in its judgment as to assessed value. The city refuses to pay petitioner, yet it requires acts only an employee would be required to perform, such as living on site, and performing menial labor. The municipal assessor evaluates petitioner's work as if it were "real estate," the mark of a personal service contract. All this is done with no wages as required under the law.

This is prohibited under the Internal Revenue Code. A number of revenue rulings are informative as to live in apartment managers. IRS letter ruling 8949002, issued August 25, 1989, evaluates the factors establishing an employment reltionship as contrasted with an independent contractor status. In that revenue ruling, the employee, like petitioner, lived in the apartment property, performed grass cutting and snow removal personally, painted, and did plumbing and other maintenance. The employer failed to provide a Form W-2, and did not indicate how he reported income to the Internal Revenue Service.

As the Tax Advisor notes in its February, 1990 article, although the employee was supposed to be employed full time elsewhere, he did not perform services for any one other than the taxpayer, (here the City of Hackensack).

In the case of the revenue ruling, thirty days notice is sufficient to discharge the employee. By comparison, the city of Hackensack recently jailed petitioner three days and petitioner's mortgage holder threatened foreclosure, which would deprive petitioner of his ownership interests. Civil process is not available, since abuse of process predominates.

While employers are required to withhold FICA and FUTA and income taxes, Hackensack does not. The common law and statutory requirements differentiate an employee from an independent contractor. A significant investment usually

distinguishes an employee from an independent contractor, but in the case at bar, no amount of money invested, or time spent, is significant. Confiscatory taxation takes all income, producing tenants who flood the basements with three thousand gallons (Appellate Div. App. 42) of water by stopping up the sewer lines, thereby hoping to win rent reductions.

A recent significant example demonstrating this is that the city used the municipal police department to order petitioner out of his home at 390 Park Street, Hackensack. The city preferred to allow a transient, non-paying, $7 per day, room-renter occupancy and control of the house. The transient had just returned from jail where she had been incarcerated due to failure to report to probation. This transient called the police at least nine times in order to have petitioner incarcerated.

CONCLUSION

FOR THE REASONS HEREINABOVE SET FORTH, PETITIONER PRAYS FOR THE GRANT OF CERTIFICATION BY THE NEW JERSEY SUPREME COURT.

Date Submitted: September 28, 1995
Respectfully submitted:
SALVATORE MORETTI,
PETITIONER PRO SE

App. 22

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

December 6, 1994

Hon. Peter D. Pizzuto, J.T.C.
125 State Street
Room 108
Hackensack, New Jersey 07601

Re: Salvatore Moretti v. City of Hackensack, Docket No.8336-93; Parcel One - Block 418, Lots 22 and 23. Parcel Two - Block 418, Lot 24. Motion Return Date December 2, 1994

Dear Jodge Pizzuto:

I have just received Donald J. Lenner's letter of December 2, 1994 which states that,

"the Court has deferred rendering a decision on Plaintiff's Motion until the Court decides the Defendant's Motion for Dismissal which Motion will be made returnable on January 6, 1994. The Defendant has withdrawn, without prejudice, its Cross-Motion. The foregoing represents the Court's decision following the comments of the Plaintiff Taxpayer and the undersigned, attorney for the Defendant, and the Court on January (s.b.) December 2, 1994.

I objected to any postponements due to the relief required under emergent circumstances. The City in effect is claiming it needs a postponement, when it has delayed proceedings in the Federal Court claiming that court lacked jurisdiction. On December 2, 1994, I stated that the City of Hackensack submitted a brief to the United States District Court (dated February 2, 1993) in which Point IV is as follows: PLAINTIFF'S CLAIMS AGAINST THE MUNICIPAL DEFENDANTS FOR IMPROPER ASSESSMENT OF THIS REAL PROPERTY CANNOT BE HEARD IN FEDERAL COURT. (at p. 15)

As I stated on December 2, 1994 in the Tax Court on Hearing
of my motion, when the City was required to prove its case, it stated that the federal courts were not a proper forum, thus rendering the state the only forum. I stated then that I objected to any postponement, since I had not had opportunity to prepare for a delay due to the repetitive assertion of a "jurisdictional" problem. Equity should not grant to a party special favors when it comes with unclean hands. As I stated, the City bound itself before the federal court to present its case in timely fashion before the state court system.

Our discussion in federal court came at a time (October, 1992 - February, 1993) when the assessment of the above captioned real property was over $750,000, and there was not doubt that the complex issues raised involving land uses, external diseconomies, zoning

variances, contiguous funeral uses, contiguous offices uses, contiguous psychiatric halfway house uses, and contiguous factory uses, as well as various governmental regulations including health alerts, fire department alerts, police searches, etc. were not primarily county board tax matters. Nevertheless, the city bound itself that the state should hear such matters, and it filed a motion in 1992 to dismiss under Federal Rule of Civil Procedure 12 (b)(6). Subsequently, briefs were submitted in November 1992 through to February, 1993, arguing for dismissal. I stated at the motion hearing that it would have been a simple matter to bring in the brief submitted by the City of Hackensack, so that the city should be bound to proceed now. I am setting forth below a copy of the fourth point in the February 2, 1993 brief, which continues as follows:

"Although plaintiff asserts that the City of Hackensack has improperly assessed the true value of his property, thus depriving him of ownership of the property without due process of law he, nevertheless, fails to note that a federal court is not the proper forum to object to such an assessment of real property .New Jersey law does specifically provide for state administrative and judicial access and remedies. N.J.S.A. 54:3-21 states:

'A taxpayer feeling aggrieved by the assessed valuation of his property, or feeling that he is discriminated against by the assessed valuation of other property in the county, or a taxing district which may feel discriminated against by the assessed valuation of property in the taxing district, or by the assessed valuation of property in another taxing district

in the county, may on or before April 1 appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer or taxing district may, on or before April 1, file a complaint directly with the tax court, if the assessed valuation of the property subject to the appeal exceeds $750,000. A taxpayer shall have forty-five (45) days to file an appeal upon the issuance of a notification of a change in assessment. All appeals to the tax court hereunder shall be in accordance with the provisions of the State Tax Uniform Procedure law, R.S. 54:48-1 et seq.'

'If a petition of appeal or a complaint is filed during the 19 days next preceding April 1, a taxpayer or a taxing district shall have twenty (20) days from the date of service of the petition or complaint to file a cross-petition of appeal with a county board of taxation or a counterclaim with the clerk of the tax court, as appropriate.'

N.J.S.A. 54:51A-1 goes on to provide in pertinent part:

'a. Any party who is dissatisfied with the judgment, action or determination of the county board of taxation may seek review of that judgment, action or determination in the tax court by filing a complaint in the tax court. pursuant to rules of court. 'R. 8:3-1 et seq. sets forth the actual mechanics of filing the complaint.

'Thus, plaintiff had a clear remedy provided by statute, to challenge the municipality's tax court assessment. He could have -- and, indeed should have, if he honestly felt he

had been wronged -- filed a petition of appeal with the Bergen County Board of Taxation on Main Street in Hackensack, within walking distance of where plaintiff's property is located and where he maintains his office. In lieu of that petition, ho could have filed his appeal directly with the New Jersey Tax Court, if the assessed value of his property exceeded $750,000. He would have been given a full and fair opportunity to present all competent evidence in support of his position at an open hearing. If he was unsatisfied with the decision of the county tax board, he could still file a complaint in the state tax court. Plaintiff failed to do this. He should not now be permitted to circumvent a clear state statute and equally clear state tax court rules by spuriously alleging that a particular assessment was improper and had deprived him of his property without due process of law.'

On June 21, 1993, Judge Harold A. Ackerman issued an opinion and order stating, in pertinent part, as to the tax assessment of the subject real property; (p. 14) "Moretti also alleged that the Council (sic) conspired to fix the assessed value of his property in excess of its actual value, thereby depriving him of his ownership rights. This court is barred from hearing this claim, however, for lack of subject matter jurisdiction. [Although the factual allegations set forth in this count refer to unidentified 'defendants,' the demand for relief contained in this names only the City Council. In either case, however, the claim must be dismissed because this court lacks subject matter jurisdiction.]

The Tax Injunction Act ("Act") provides that: [t]he district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax where a plain, speedy and efficient remedy may be had in the court of such .State.28 U.S.C. Section 1341. The principal purpose of the Act is to limit federal court interference with local tax matters....

Both the Supreme Court and the Third Circuit have declined to rule on whether the Tax Injunction Act bar actions for monetary damages. See Fair Assessment in Real Estate Association v. McNary, 454 U.S. 100 (1981); see also Hardwick v. Cuomo, 891 F. 2d. 1097, 1104 (3d Cir. 1989) (comity supplements Tax Injunction when only money damages are sought)...

Because New Jersey provides a plain, complete and adequate remedy, this court lacks jurisdiction over any claim regarding the allegedly wrongful property value...For all these reasons, the claims against theCity Council will be dismissed."

The reason for my quote of this section (P. 13, etc.) is to show that the statements made by the City of Hackensack as to jurisdiction were made under the necessity to defend a Section 1983 challenge that the assessment of the real property based upon the totality of conditions affecting that property required a lowering of the assessment; the city refused to take this action because it refused to acknowledge that the underlying conditions existed. If the

states provide adequate remedies, than comity prevented federal resolution of the state matter, since the states should be given opportunity first to resolve it.

On March 13, 1993, I submitted my reply to the federal district court in Newark, New Jersey. Note from the following material included in my reply the length of time encompassed by
the actions of the city - actions dating back to 1990 and 1991.

"The actions of Farlie (Health Department) and Carucci (Fire Department), were not taken in furtherance of their employment. Just the contrary appears. Farlie stood by while the Hackensack Water Company turned off the water (to Park Court Apartments in August, 1992). Carucci drove his men to distraction following false alarms in the neighborhood, some six false alarms in one day in one building, in derogation of his duties under Hackensack Code Section 88-15. That code section states that the Fire Department is to locate someone on the premises First in order to advise of the existence of a smoke alert before tampering with the fire alarm system, and that by decreasing the number of alerts, prevent fines, which rise from $25.00 the first incident to $100 per false alarm Each Subsequent Incident. Carucci did not follow the code, he visited one neighborhood six time in one day, over 100 times in several months, with the potential fine of $10,000 reflected in a $575.00 (sic) fine."

At issue is that Farlie was sent to view the Hackensack

Water Company turn off the water after months of complaints to the water company about high water bills. The water company is listed in the N.J. Lawyers Diary as doing water searches for the City of Hackensack, making the city its employer. The city failed to supervise resulting in a build-up of a water bill to $10,000 and above.

A new building, 370 Park Street, assessed at over $3 million, was sold back to its prior owner after years of smoke alarm alerts. The owner gave up entirely, for no consideration, his equity in the seventy-two unit apartment house built up over a period of five years.

Under the circumstances set forth, the jurisdiction of the N. J. Tax Court assumes greater significance, for it is there that complex litigation may proceed.

I trust the foregoing will enlighten the court as to the allegations of the city now that the state tax court lacks jurisdiction.

Very truly,
Salvatore Moretti

cc: Donald Lenner

App. 30

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

June 17, 1995

Emille R. Cox
Clerk of the Appellate Division
Superior Court of New Jersey
Hughes Justice Complex
CN-006
Trenton, New Jersey 08625
Att: Team No. 2

re: Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2.

Dear Clerk of the Court:

I received Donald Lenner's (City of Hackensack's) letter dated June 14, 1995, which disputes entry of a stipulation of settlement of the facts/law within pursuant to my June 12, 1995 letter. H2e states therein that the arguments of the underlying action were not responsive to "my (City of Hackensack's) Motion to Dismiss."

On November 14, 1994, I submitted a motion to the Tax Court (return date December 2, 1995, oral argument

demanded by myself) to enter an order temporarily restraining the Hackensack Taxing District from collection of taxes on petitioner-appellant's real .property due to numerous evictions of non-paying tenants, and due to the disputed taxes subject of this case.

On November 8, 1994, Donald Lenner (Hackensack) wrote to me that "I served interrogatories upon you to be answered by you..[U]nless I receive answers those answers within one week, I will apply to the court for appropriate relief, including seeking dismissal of your complaint for failure to answer interrogatories."

In fact, there was no motion filed by Lenner prior to November 8, 1994, and on the return date of December 2, 1994, Lenner had not only received the answers to interrogatories, but never filed a discovery motion. He changed his approach and then following the December 2, 1995 motion hearing filed an amended December 6, 1994 letter which stated "allow this to confirm that the Court has deferred rendering a decision on Plaintiff's Motion until the Court decides the Defendant's Motion for Dismissal Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2. 2. 6/17/95 which Motion will be made returnable on January 6, 1994... The foregoing represents the Court's decision following the comments of the Plaintiff Taxpayer and the undersigned, attorney for the Defendant, and the Court on the December 2, 1994 (sic)[return date on the motion to temporarily enjoin the collection of real property taxes of petitioner-appellant's real property.]

Note that there was no oral argument made on the jurisdictional issue on December 2, 1995, and that Hackensack cross-motion was voluntarily withdrawn by the City of Hackensack so that a new return date of January 6, 1995 could be established.

On January 6, 1995, the City of Hackensack represented by Lenner once again failed to present oral argument, since the Tax Assessor who was to appear to give testimony did not appear. On January 12, 1995, Lenner wrote "enclosed please find an original and one copy of the Certification of Peggy McIntyre, Assistant Tax Assessor for the City of Hackensack. Unfortunately, the City's Assessor, Arthur Carlson, suffered another family tragedy and was not available this week to provide the additional Certification. Also enclosed are three copies of a revised Order. (whi8ch was entered on February 7, 1995 as the final order dismissing petitioner's case.) In fact, neither McIntyre nor Carlson ever appeared, over petitioner's objection (that he could not cross-examine a piece of paper), so there was no testimony offered by Hackensack, and no proof.

February 7, 1995 was the date of trial, and on that date no order had yet been entered by the tax court on any matter. Neither the temporary restraint on tax collection nor the motion to dismiss had been considered. Since "family tragedy" prevented Carlson from appearing previously, and since the only "proof" offered by Hackensack was the photocopy of a returned postcard showing that 245 Anderson Street, Apt 8B had received a postcard notifying them of tax assessment, but the taxpayer had

moved.[Petitioner-appellant objected that he was out of state when the postcard was allegedly delivered notifying him of the assessment for the coming year - which was not objected to by Lenner - and hence had not received notice.]. As a result, all oral argument was to be conducted at the February 7, 1995 proceeding.

On February 7, 1995, there was no oral argument permitted. When I rose to address the tape recorder (the judge left the room immediately after claiming he signed Lenner's order to dismiss) even the tape recorder was shut off by a clerk seated next to the tape recorder, so that no remarks could be recorded. The judge let the entire group of litigants wait for two hours, and refused to emerge from his chambers. I remained in the courtroom and in fact received a copy of the order hand delivered that day, February 7, 1995, the court refusing to allow any oral argument, and Hackensack presented none. Neither the Tax Assessor nor the Assistant Tax Assessor was present, nor was anyone else there to testify on behalf of the City of Hackensack.

I filed Notice of Appeal the very same day, February 7, 1995, and pro4ceeded to the Appellate Division in Jersey City arguing for the settlement of the record, since there was no marking of exhibits, no taking of testimony, nor was there any opportunity to present procedural objections (which I sought to make.)

Under the circumstances set forth, there is no basis to

Mr. Lenner's objections set forth in his June 14, 1995 letter. No further comment should be allowed since it would merely cause needless delay.

Very truly,
Salvatore Moretti

cc: Donald Lenner, Esq.
286 Union Street
Hackensack, New Jersey 07601

App. 35

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

June 27, 1995

Emille R. Cox
Clerk of the Appellate Division
Superior Cuort of New jersey
Hughes Justice Complex, CN-006
Trenton, New Jersey 08625
Att: Team No. 2

re: Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-
94T2.

Dear Clerk of the Court:

I recevied Donald Kenner's (City of Hackensack's) letter dated June 20, 1995, which disputes entry of a stipulation of settlement of the facts/law within pursuant to my June 17, 1995 letter. He stated in his June 14, 1995 letter that the arguments of the underlying action were not responsive to "my (City of Hackensack's) Motion to Dismiss," while in his June 20, 1995 letter he complains that a transcript should be ordered when the judge did not appear on February 67, 1995, and the tape recorder was

abruptly shut off when I attempted to address the court on the matter of jurisdiction. On February 7, 1995, Mr. Lenner said nothing. Clearly, the problem is the motion to dismiss drafted by Mr. Lenner was drafted without sufficient support on Hackensack's part, and the hearing was not dispositive.

At issue is the federal complaint stated to the Tax Court as to an apartment complex manager, i.e.: Where the worker is hired to perform managerial services over property operated by the firm including renting apartments, collecting rent, overseeing apartment cleaning and repairs, and where the worker receives instructions in the way the work is to be done, is subject to supervision and review daily by a property supervisor and submits daily and weekly reports, the worker is an employee. The firm also furnished all of the necessary office supplies and equipment needed by the worker. The worker was eligible for paid vacation. Either the firm or the worker could terminate the agreement for services at any time without incurring a liability." [Letter ruling 8639049 - June 30, 1986]

In the case sub judice, the municipality (and the state) have refused to consider vandalism and constitutional rights at the apartment site, resulting in decreases in contract rent, high vacancy rates, rental losses, and failure to adhere to federal minimum wage guidelines.

Recent examples include the removal of an office worker from my employ and her incarceration, plus

numerous floods to the basements in which 3000 gallons of water were dumped into the cellar, resulting in delays of responses to Mr.Lenner. I have included a photograph of one such "flood" which dumped 3,500 gallons of water in the laundry room.

It should be apparent that based upon the proceedings below Mr. Lenner cannot stipulate upon a settled record in that he drafted the order requested by the judge who relied upon Mr.Lenner who said nothing on the return date of the order to dismiss. This cannot delay any further the appeal.

Very truly,
. Salvatore Moretti

enc. Photo of flooded basement due to negligence by tenants and officials in Hackensack.

cc: Donald Lenner, Esq.
2868 Union Street
Hackensack, New Jersey 07601

App. 38

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

August 25, 1995

Emille R. Cox
Clerk of the Appellate Division
Superior Cuort of New jersey
Hughes Justice Complex, CN-006
Trenton, New Jersey 08625
Att: Team No. 2

re: Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2.Opposition to Thirty Dy Extension to City of Hackensack to File Brief and Appendix

Dear Clerk of the Court:

I received a telephone communication today from the Appellate Division suggesting that it is timely for the City of Hackensack to receive a thirty day extension within which to file its brief and appendix in the above captioned case.

I delivered to the Appellate Division proof of service upon Donald Lenner of my brief and appendix on July 7, 1995. That letter was dated July 14, 1995, and is enclosed for your reference. This means that pursuant to R. 2:6.11(b)

("the respondent shall serve and file an answering brief and appendix, if any, within 30 days after the service of the appellant's brief."), Mr. Lenner was required to serve his answering brief by August 7, 1995, three weeks ago. Since he did not request an extension in a timely manner, an extension should not be considered now.

I spent two months in settling the record with Mr. Lenner, said correspondence terminating June 27, 1995, Pa. 37-41, which letter concludes by stating: "it should be apparent that based upon the proceedings below Mr.Lenner cannot stipulate upon a settled record in that he drafted the order requested by the judge who relied upon Mr. Lenner who said nothing on the return date of the order to dismiss. This cannot delay any further the appeal." On February 1, 1995, (Pa. 636) Mr. Lenner wrote "at the conclusion of oral argument on January 6, 1995, Your Honor requested that I submit a proposed Order and an additional Certification from an individual in the Assessor's Office by January 13, 1995.By letter dated January 12, 1995, those documents were mailed to the Court and Mr. Moretti. Your Honor further directed Mr. Moretti to file, by January 20, 1995, an additional document to the Court setting forth reasons why the Court should not enter the Order dismissing the appeal. I complied with Your Honor's directive. In addition, Mr. Moretti (sent) three document letters dated January 13, 19, and 20. By last count, he has submitted letters dated January 23rd; January 26th; January 27th and January 31st." The January 12, 1995 Certification of Peggy McInteyre is included at Pa 629.

The transmittal of the certification of January 12, 1995 (Pa 628) states, "unfortunately, the City's Assessor, Arthur Carlson, suffered another family tragedy and was not available this week to provide the additional Certification. Also enclosed are three copies of a revised Order." Clearly, there were no hearings between January 12, 1995 and January 20, 1995 (the deadline for plaintiff-appellant to file additional documentation), and the petitioner filed documents the last of which is dated January 31, 1995 (Pa 527-610) [and thereafter dated February 2, 1995 (received by the Tax Court February 6, 1995) - Pa 4611-626.

Hence, the status of the case going into February 7, 1995 is that the court required evidence to be considered including a certification (and first appearance by the Tax Assessor Arthur Carlson, who had never appeared), that the trial is set for that February 7, 1995, and Mr. Lenner had not even submitted an order by January 6, 1995, (when Arthur Carlson was supposed to appear for the first time but did not (due to an alleged family tragedy). As a result, Mr. Lenner substituted a certification by Peggy McIntyre. On February 1, 1995, Mr. Lenner submitted an additional letter complaining of the evidence plaintiff-appellant submitted between January 20 and 31, 1995, evidence the court clearly demanded to be submitted prior to the February 7, 1995 hearing date.

Considering that evidence was required by the trial court on February 7, 1995 from both sides, along with an order by the city of Hackensack. The court was to consider

dismissal prior to consideration of plaintiff-appellant's order granting interim relief from the city's collection of real estate taxes. When the judge failed to appear on February 7, 1995, plaintiff-appellant submitted his appeal from the order of dismissal the very same day - February 7. 1995 (Pa 627) - and delivered to Judge Ariel Rodriguez (Pa 27) on February 7, 1995 in Hudson Courty, Brennan Courthouse, 583 Newark Ave., Jersey City, N.J., a notice (with the order of dismissal Pa 1 attached) stating "I am applying for interim relief to require the state tax court to hear the appeal (because it failed to do so) prior to entry of the order of dismissal) which has been duly filed with it."

Mr. Lenner and plaintiff-appellant were the first on for February 7, 1995. Court began at 9:00 a.m. As soon as the judge appeared in court he rose and left, leaving his court clerk to turn off the tape recorder and advise plaintiff-appellant that there would be no hearing. After over two hours waiting in court, (it was 11:15 a.m. by that time) the courtroom was filled with 20 taxpayers, all waiting for their case to be called; unfortunately there was no judge sitting on the bench.

As a result of the foregoing, it is clear Mr. Lenner's claim "there is no transcript" results from plaintiff-appellant's claim that there was no hearing held on February 7, 1995. Mr. Lenner did not want a hearing on February 7, 1995. The fact is that the city failed to submit an appraisal report, failed to produce the tax assessor to testify and be cross-examined (or anyone else, and it is impossible to cross-examine a piece of paper), and failed to consider that

the federal district court dismissed because the state tax court would provide speedy relief. Consider the extensive correspondence with Mr. Lenner to settle the record. At that time, Mr. Lenner should have sought additional federal district court papers, but he failed to do so - it was clear that the federal court motions to dismiss were submitted in 1992 when the assessment was over $750,000 - the jurisdictional limit for the state tax court. Consider that Mr. Lenner could have called Mr. Topolski to support his position if the tax court did not have jurisdiction - he chose not to do so. Mr. Lenner failed to demand the production of additional federal court correspondence showing the date and admissions given in federal court that the state tax court should take jurisdiction. Now, it is not timely that Mr. Lenner request an extension to file his brief.

Very truly,

Salvatore Moretti

cc: Donald Lenner, Esq.

App. 43

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

September 1, 1995

Emille R. Cox
Clerk of the Appellate Div.
Superior Court of N. J.
Hughes Just. Complx CN006
Trenton, N. J. 08625
att.: Team No. 2

Bergen County Tax Board
Bergen County Admin.
Court Plaza South 310 West
21 Main Street
Hackensack, N. J. 07601
att: G. Schuster, Hearing Examiner

Re: Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2. Opposition to Thirty Dy Extension to City of Hackensack to File Brief and Appendix in re: App. # 23-9500109 - Bl. 418, Lots 22 & 23 (391-5 Park St) App. # 23-9500110, Bl. 415 L. 8.B (390 Park St.,Hackensack, NJ) pp. # 23-9500111, Bl. 418, L 24. (387 Park St, Hackensack)

Dear Madam and Sirs:

I testified today at the Bergen County Tax Board hearing before hearing examiner Gary Schuster (phonetic). Bartlett Carl son the Hackensack Tax Assessor appered on behalf of the City of Hackensack, N. J. with Donald Lenner, Esq. representing Hackensack.

I requested the property record cards for the three properties on appeal before the county tax board, but the assessor provided none of the property record cards for any of the three properties.

The property record cards contain the dimensions of the properties, as well as necessary information for the assessment of the properties (such as the depreciated cost approach, the income approach to value, and the reproduction cost approach). When I insisted on receiving them, the hearing examiner stated: "if you proceed this way, we will be here until 6:30 p.m., and "I do not wish to have words with you." I did not receive the property record cards.

Persisting, I discovered that the hearing examiner did not have a copy of the two volume brief and appendix in the above captioned appellate division case (670 pp. long), so I offered that he should have my copy to consult if he required. Further, I stated that illegal funeral parking on Block 418, Lot 24 (387 Park St), a vacant unpaved lot, should not result in my paying a Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2. Opposition to Thirty Day Extension to City of Hackensack to File Brief and Appendix in re: App. # 23-9500109 - Bl. 418, Lots 22 & 23 (391-5 Park St), App. # 23-9500110, Bl. 415 L. 8.B (390 Park St., Hackensack, NJ), App. # 23-9500111, Bl. 418, L 24. (387 Park St, Hackensack) premium assessment (since the police were always called to allow patrons of the funeral homes to park illegally throughout the

neighborhood.

The assessor said nothing at all, and offered no evidence. He produced no appraisals of any of the three properties. The hearing examiner said all he had on Block 418,lots 22 and 23 was a few pages, which were the expenses on the property, and he could not believe I spent $100,000 per year merely to operate the buildings. To this I replied that the taxes were roughly $25,000. I paid $18,000 in just twelve months for water alone, (and they still want to shut off the water, claiming I owe $8,000 more). The fuel oil is at least $8,000 per year. I supply heat and hot water, (and the winters under examination for a three year period were brutally cold, one including so much snow and ice it required three months of snow removal, for which I put down only $275 for salt and sand). Plus all of the maintenance was exaggerated due to the lower class clientele in the area. Insurance was $10,000 per year. I stated I paid high expenses for maintenance, since tenants of the local apartment buildings believe if they cause damage to their apartments, they will be able to pay less rent. I cited high tenant turn-over. Further, I said that typically the tenants sign the lease for themselves alone, then bring in three or more friends, and then take off, when they cannot afford the rent due to unemployment. This results in no contracts on the apartments...The hearing examiner stated that he put great weight on the contracts of rent, whether the rent was collected or not. Contrary to this I testified the new apartment building built in 1981 containing 72 units at 370 Park Street was sold at a "bankruptcy" sale back to the prior owner for nothing in

1992 after three mortgage re-castings, and they had very attractive lease contracts with rents higher than mine. The collectible rent is more important than the contract rent under these circumstances.

I was asked about the status of 390 Park Street (which the hearing examiner said was my legal address). I said that it was a mail-drop, but he disagreed with me, claiming I lived there. I said I could not live there, since the apartment house conditions were so intolerable...someone had to be on site 24 hours a day at 391-7 Park Street, Hackensack. I cited to the bad living conditions in the neighborhood typified by the boarding house at 111 Passaic Street (burned down) and the psychiatric halfway house at 387 Park Street (the hearing examiner was incredulous, saying he never heard of such a building, suggesting he never read my two volume 670 page report to the appellate division)....The hearing examiner said "this is an investment property for you, is it not," and I replied it was a business requiring work, with no return for labor....

He asked about income-capitalization at 391-7 Park Street, Hackensack (Bl. 418, L22-23), and I said my capitalization of income was just over $200,000, $500,000 below that set by the assessor. To this the assessor said nothing at all. The hearing examiner found it hard to believe expenses were so high, but I stated they were very high due to the poor type of neighborhood in which residential tenants were being zoned out by funeral and industrial and business uses, typified by the zoning changes allowed by the zoning board. Minorities predominate in the

neighborhood...

While Mr. Lenner claims he wants a Tax Court transcript, he said nothing at the hearing, (except he was surprised that 387 Park Street was not paved (this property was pictured in my two volume report as vacant and dirt, due to no sewer connection available due to a sewer moratorium). Under these circumstances, I trust the appellate division will ignore Hackensack's statement that a transcript is missing.

Very truly,
Salvatore Moretti

cc: Donald Lenner, Esq.
286 Union St.
Hackensack, N.J. 07601

Bartlett Carlson
Hackensack Tax Assessor
Hackensack City Hall
Hackensack, N.J. 07601

App. 48

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

September 11, 1995

Bergen County Tax Bd.
Bergen Cty. Admin.Bldg.
Court Plaza South 310 W.
21 Main Street
Hackensack, N. J. 07601
att: Mr. Gary Schuster, Hearing xaminer

Arthur Carlson
Hackensack Tax Assessor
Hackensack City Hall
Hackensack, N.J. 07601

re: Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2. Opposition to Thirty Dy Extension to City of Hackensack to File Brief and App.in re: App. # 23-9500109 - Bl. 418, Lots 22 & 23 (391-5 Park St) · App. # 23-9500110, Bl. 415 L. 8.B (390 Park St.,Hack., NJ) App. # 23-9500111, Bl. 418, L 24. (387 ParkSt, Hackensack)

Dear Mr. Arthur Carlson (Hackensack Tax Assessor):

On September 1, 1995 I appeared before the Bergen County Tax Board on Tax Appeals with respect to three properties under my ownership, street addresses 387 Park Street, 390 Park Street, and 391-395 Park Street, Hackensack. I demanded copies of the three property record cards at the hearing but they were not produced.

Under the statutory law set forth at N. J. S. A. 47:1A-2, Public Records; right of inspection; copies; fees, property record cards are public records in which there is a right of inspection by the taxpayer, with 9a corresponding right to have copies under the statute. The case law specific to the facts at bar is DeLia v. Kiernan, 119 N.J. Super. 581, 293 A.2d 197 (App, Div. 1973), the note comment being that. "Property Owner and Real Property Appraisal Manual For New Jersey Assessors, PP. I-101 to I-113, taxpayer, who had tax assessment discrimination appeal pending ...had a sufficient interest so as to justify inspection of property record cards, which reflect information concerning character and use of property and which were in possession of tax assessor; such records, although not required to be kept by statute, were not required to be withheld from public view either on theory that they contained confidential information or that they belonged to the assessor."

Subsequent to that case the local property and public utility branch of the Division of Taxation in New Jersey revised the Handbook for New Jersey Assessors, and the New Jersey Assessor's Manual, both of which confirm the statutory interpretation of DeLia v.Kiernan. For example, the handbook states at V-24 that "the Real Property Appraisal Manual For New Jersey Assessors provides guides for the assessor in arriving at estimates of physical depreciation and various forms of functional and economic obsolescence. Wherever possible, the results obtained by using these guides should be checked against local data. REFERENCES: Real Property Appraisal Manual for New

Jersey Assessors, pp. 1-101 to I-113.

Since my case involves locational obsolescence on the three properties, (which was found by the Bergen County Tax Board for the tax year 1991 and thereafter resulting in lowering assessment), those property record cards should have been made available to me prior to the hearing before the Bergen County Tax Board hearing on September 1, 1995, and now that the matter is .still unresolved.

This letter constitutes a demand for you to turn over the property record cards for the three above captioned properties in Hackensack.

Very truly,
Salvatore Moretti

App. 51

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

September 14, 1995

Bergen County Tax Bd.
Bergen Cty. Admin.Bldg.
Court Plaza South 310 W.
21 Main Street
Hackensack, N. J. 07601
att: Mr. Gary Schuster, Hearing xaminer

Arthur Carlson
Hackensack Tax Assessor
Hackensack City Hall
Hackensack, N.J. 07601

re: Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2. Opposition to Thirty Dy Extension to City of Hackensack to File Brief and App.in re: App. # 23-9500109 - Bl. 418, Lots 22 & 23 (391-5 Park St) App. # 23-9500110, Bl. 415 L. 8.B (390 Park St.,Hack., NJ) App. # 23-9500111, Bl. 418, L 24. (387 ParkSt, Hackensack)

.Dear Mr. Arthur Carlson (Hackensack Tax Assessor):

On September 1, 1995 I appeared before the Bergen County Tax Board on Tax Appeals with respect to three properties under my ownership, street addresses 387 Park Street, 390 Park Street, and 391-395 Park Street, Hackensack. I demanded copies of the three property record cards at the hearing but they were not produced.

On or about September 10, 1995, I received the three property record cards requested for the appeals above captioned, but I discovered that the house at 390 Park Street, Hackensack, N. J. is listed as 2 U. I inquired what "2 U" signified and was told it was a two family. Block 415, Lot 8.B is not a two family; it is a one family. It has but one kitchen. There are three small bed rooms on the second floor. There is a living room and kitchen on the first floor. At present there is only one main occupant, the sole owner, myself, and I occupy all of the first floor. I do not even use the kitchen.

It has been listed as a two-family since the revaluation company performed their revaluation which resulted in the boost in assessment in 1987. Please correct this error on the property record card, and advise the board of tax appeals of your figures on a single family home assessment.

Very truly,

_____

Salvatore Moretti

App. 53

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

September 16, 1995

Bergen County Tax Bd.
Bergen Cty. Admin.Bldg.
Court Plaza South 310 W.
21 Main Street
Hackensack, N. J. 07601
att: Mr. Gary Schuster, Hearing xaminer

Arthur Carlson
Hackensack Tax Assessor
Hackensack City Hall
Hackensack, N.J. 07601

re: Salvatore Moretti v. City of Hackensack, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-004913-94T2. Opposition to Thirty Dy Extension to City of Hackensack to File Brief and App.in re: App. # 23-9500109 - Bl. 418, Lots 22 & 23 (391-5 Park St) App. # 23-9500110, Bl. 415 L. 8.B (390 Park St.,Hack., NJ) App. # 23-9500111, Bl. 418, L 24. (387 ParkSt, Hackensack) Demand for Rehearing before Bergen County Tax Board

Dear Mr. Arthur Carlson (Hackensack Tax Assessor):

On the basis of three property record cards being turned over to me which date back to the revaluation of 1987, and the excessive boost in real estate taxes on all three lots under my ownership from that date, it is clear that another hearing before the Bergen County Tax Board must be scheduled to determine

what my real property assessment should be. As I noted in my letter of September 14, 1995, the classification of a single family at 390 Park Street, Hackensack, as a two 9family is a glaring error.

As to depreciation, the statement that the house is only 60 years old according to the revaluaiton company is clear error, in that the house dates back to the 1800's, and its physical condition at present is reflective of its 95+ year age. Note that the City Clerk appeared just before me at the county tax board hearing (the assessment on her house was challenged due to proximity to a property on which a church obtained a variance), and her assessment was for a house in mint condition compared to my property, yet the two assessments were similar.

As to the real property at 387-391-397 Park Street, the vacant land and the apartment house buildings, the assessment is also much too high, and cannot be supported on the basis of the 670 page report 94-T2]. The hearing examiner did not require the tax assessor to give testimony on September 1, 1995, nor did he allow me to cross-examine the assessor, as I requested. I was not provided with copies of the property record cards at that time, but only subsequently.

Very truly,
Salvtore Moretti

App. 55

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

January 9, 1996

United Water New Jersey
P. O. Box 23398
Newark, New Jersey 07197-0001

also addressed to:Kent Papsun, Board of Public Utilities, Newark, N.J.; Juges Gerson & Jeffrey, Office of Administrative Law, Newark ; Judge Peter D. Pizzuto , Tax Court of N. J., Hackensack; Hackensack Tax Collector (w.r.t. Lien for Water Charges)
Docket No. OAL PUCC 07022-95N Failur of Hackensack Water Co. to Answer Interrogatories, Account No. 05-480-18900-2. Service Address 391-395 Park St., Hackensack, N. J. 07601.

Dear Sirs:

I am disputing the water bill, as Hackensack Water Co., now known as United Water Co, has been advised.

I am enclosing a money order for $1,000.00, as follows the other payments are made a part of this document:

9/6/94. 1. $1,000.00 to Hackensack Water Co.
9/6/94 2. $1,000.00 to Hackensack Water Co.

9/6/94 3. $500.00 to Hackensack Water Co.
9/6/94 4. $1,000.00 to Hackensack Water Co.
9/15/94 1. $1,000.00 to Hackensack Water Co.
915/94 1. $500.00 to Hackensack Water Co.
10/14/94 1. $1,000.00 to Hackensack Water Co.
10/14/94 2. $500.00 to Hackensack Water Co.
11/10/94 1. $1,000.00 to Hackensack Water Co.
11/10/94 2. $500.00 to Hackensack Water Co.
12/7/94 1. $1,000.00 to Hackensack Water Co.
12/7/94 2. $500.00 to Hackensack Water Co
12/31/94 1. $1,000.00 to Hackensack Water Co.
3/14/95. 1. $1,000.00 to Hackensack Water Co.
3/14/95. 2. $800.00 to Hackensack Water Co.
3/14/95. 3. $200.00 to Hackensack Water Co.
5/15/95 1. $1,000.00 to Hackensack Water Co.
5/15/5. 2. $1,000.00 to Hackensack Water Co.
6/8/95 1. $1,000.00 to Hackensack Water Co.
7/7/95 1. $500.00 to HackWater aka United Water
7/7/95 2. $500.00 to United Water aka Hack Water
8/7/95 1. $500.00 to United Water Co., aka Hack Water
8/7/95 2. $500.00 to United Wat, aka Hack.Water.
9/8/95 1. $1,000.00 to United Water aka Hack Water
10/7/95 1 $750.00 to United Water.aka Hack Water
12/4/95 1. $750.00 to United Water aka Hack.Water
1/9/96. 1. $1,000.00 to United Water aka Hack Water

Prior Notice from August 7, 1995 Payment:

Note that the enclosed water company bill dated July 13, 1995, Service Address of 391-395 Park Street, Hackensack, Account No 05-480-18900-2 is an estimated bill for

689.656 gallons of water, with an amount due on or before July 28, 995 equal to $6,886.34. I would hope that the building did not consume that much water, but I do know that tampering with Water consumption does occur. The issue is water consumptionm must be kept reasonable, so that usage by illegal tamperers gives rise to criminal charges being brought. This is only a 20-unit building, with twenty flush toilets. I have just been advised today that Hackensack paid the water company $753.00 - unknown to me in 1992 - and now is charging me with an interest to date amount of over $1100 for the past three years. Thus I presumably own not $6,886.34 but $8,739.24, even after paying $16,500.00, for a total bill of $25,239.34.

P. S. I am sending the Hackensack tax collector this 6notice since they were not advised I paid the $20,250 (updated to $21,50.00) shown here, presuming that Hackensack Water Co. had not paid them the $753 because they had not been paid. Apparently the $753 was based on an "inter-office memorandum" which I was not privy to. In fact they have been paid more than any outstanding judgment. I received a notice that the water company is still concerned about "Homer". (the electronic monitoring system). and that the PUC wants to test meters. Unfortunately, the water company has not responded to my interrogatories; resisting discovery, I rely upon a recent published article in the Record on water consumption. I trust that this notice to the Office of Administrative law in Newark will act to place them upon notice that I require answers to interrogatories to proceed to the hearng scheduled in this case.

Very truly, Salvatore Moretti

enc. One M.O. made out to United Water for $1,000.00

Salvatore Moretti
390 Park Street
Hackensack, New Jersey 07601
(201) 646-1414

FILED JA.N. 30, 1996

SALVATORE MORETTI,
Plaintiff

- v -

BEVERLY FREEMAN, AND THE HACKENSACK POLICE DEPT.,
Defendants

SUPERIOR COURT
BERGEN COUNTY,

SPECIAL CIVIL PART
Docket No. DC-2603-96

COMPLAINT

The plaintiff, Salvatore Moretti, demands of the defendants the sum of $7,500.00. The defendant (Freeman) occupied the house at 390 Park St., Hackensack, (September, 1995), calling (Police) headquarters nine times or more, and locking me out. Freeman did not pay rent for two months, and preferred charges resulting in my being jailed (in the Bergen County jail annex) by the Hackensack Police for 3 days. Glue was placed in all my door locks; locks were changed. This was a conspiracy since I lived there 15 years, pay my taxes, but the defendants ordered me out of my house, arrested me, jailed me, etc. The case on this matter) before the Hackensack municipal court, C95-2227 and C95-3252 was dismissed by acting Judge S. Theodore Takvorian. Judgment will be claimed in the sum

of $7,500 together with interest and cost of suit.

I HEREBY CERTIFY THAT THE MATTER IN CONTROVERSY IS NOT THE SUBJECT OF ANY OTHER COURT ACTION OR ARBITRATON PROCEEDING NOW PENDING OR CONTEMPLATED AND THAT NO OTHER PARTIES SHOULD BE JOINED IN THIS ACTON.

(s) Salvatore Moretti

App. 60

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

January 5, 1995

Hon. Peter D. Pizzuto, J.T.C.
8125 State Street
Room 108
Hackensack, New Jersey 07601

Re: Salvatore Moretti v. City of Hackensack, Docket No. 8336-93; Parcel One - Block 418, Lots 22 and 23.Parcel Two - Block 418, Lot 24. Motion Return Date January 6, 1995. Continuance on Motion to Impose Restraints on Collection of Tax by Taxing District. Oral Argument Requested.

Dear Judge Pizzuto:

Petitioner received a letter in objection to his December 31, 1994 letter brief stating that the tolling of time for filing does not apply within. Others statements may be left to oral argument, but this matter should be addressed in advance so as to give the respondent city opportunity to refute petitioner's allegations.

Black's Law Dictionary (West Publishing Co., 1990) defines the verb toll as meaning "to suspend or stop temporarily, as the statute of limitations is tolled during the

defendant's absence from the jurisdiction and during the plaintiff's minority. To bar, defeat, or take away; thus, to toll the entry means to deny or take away the right of entry."

The Oxford English Dictionary (1989, 2nd Edition) defines toll as to bar, defeat, annul, as "The King may toll the power of the parliament."

Corpus Juris Secundum 1990 Supplement cites to Phillips v.Sharpestown General Hospital_, App. 1 Dist. 664 S.W. 2d. 162, 165 Petitioner notes in conjunction therewith that the discovery rule is discussed in this case, as follows:

"Appellants cite 37 Tex. Jur 2d. Limitations of Actions_, Section 155 in support of their position. Therein it is said: 'In a proper case the doctrine of estoppel may be invoked to prevent reliance on the statute of limitations. Thus, in a proper case a defendant may be precluded from relying on the defense of limitation if the plaintiff's failure to institute suit within the statutory period was caused by the defendant's misrepresentation or fraud, or by negotiations for an amicable settlement or by some other agreement or conduct that lulled a creditor into security and thereby caused him to delay action. (Emphasis supplied).'

In the case at bar, petitioner commenced three lawsuits relating to the expenses at Park Court Apartments, one filed with the Bergen County Special Civil Part of the Superior Court for expedited settlement, one filed with the Superior Court, Law Division, and one filed with the Federal District Court, which included both the Hackensack Water Company as defendant and the City of Hackensack as a

taxing district. As noted, interrogatories answered by the Hackensack Water Company stated that they did not perform water searches for the City of Hackensack. Yet, according to the New Jersey Lawyers Diary and Manual, the Hackensack Water Company does perform water searches.

Numerous questions were asked of the water company about water consumption at the subject apartment house, and the spaces provided for "answers" invariably were filled in "not relevant" or some other evasive reply. This is fraudulent concealment of material facts entering into the assessment of the subject real property. The Mason appraisal provides a water expense of $900, while the Hackensack Water Company regulated by the Bureau of Regulatory Commissioners bills petitioner $9,000. A 1000% in crease in the time period from 1981 to 1991 is impossible to .explain, and prompted the federal litigation. The City of Hackensack and the federal court deferred to the state tax court, wherein this matter must be addressed. On that basis, the court time required to proceed in state and federal court tolled the filing of the appeal on real property taxes.

I have appended copies of the answers to interrogatories by the water company in federal court, as well as copies of the listing of the water company as water searcher for Hackensack, contrary to the answer provided at No. 7, App 62.

This answer is relevant in that the city relied upon the

water company for the amount of water due in its municipal trial court, and allowed the water company to shut off the water. At trial, the city judge absolved the water company of any wrong doing, not questioning its water charged, and refusing all evidence thus bringing such bills into question. The trial before Judge Dinice lasted from August to December, 1992, and resulting in petitioner filing his federal appeal.

Very truly,

_____

Salvatore Moretti

enc.

cc: Donald Lenner, Esq.
286 Union Street
Hackensack, N. J. 07601

Events showing numerous court appearances From January 1992 to March 31, 1993

Date Event

YEAR - 1991 [Summary]

Apr. 24 Hackensack Municipal Court - Exterminate Animal

Apr. 25 " " " " "

Various Landlord Tenant Cases, such as: LT-035513-91, LT-036364-91, LT-038538-91, LT-038537-91, etc. (Price, Beavers...)

Nov. 20 Fire Alarms - Complainant - Richard Carucci

YEAR - 1992 [Detail]

Jan. 21 Appeal to Bergen County Tax Board heard in Hackensack City Council Chambers, Appeal #445 Appeal of 1991 Taxes. Date Judgment Mailed February 20, 1992. Land = $280,800. Improvements = $486,000. Total = $766,800. Taxing District - Hackensack. Address - 391-395 Park St., Hackensack. Judgement Code: 14b - Locational Obsolesence.

Jan 22 Landlord-Tenant Case No. LT-042052-92 Special Civil Part. Non-payment.

Jan 25 LT-043491-92. LT-Trial Notice 3/12/92

March 2 Warrant of Removal,LT-043491-92

March 5 LT-043375-92; LT-043373-92; LT-043374-92

March 12 LT-043491-92; LT-043760-92

March 18 Filed for Collection of Past Due Rents: DC-694531-92; DC-694530-92; DC-694529-92

Apr 1 Trial, LT-044192-92

Apr 9 Trial, LT-044447-92

Apr 20 DC-694530-92

Apr 21 Eviction by Constable - 391-G
Apr 30 Trial, Judge Austin, SC-060945
May 14 Carter Trial
June 2 Construction Board of Appeals, Fire Alarms, Door Closers, Case C-8-92
June 23 White v. Moretti. $400 Deduction of $200 Security
June 24 Notice of Water Shut off placed on Apt. Entry Door By Hackensack Water Company
July 1 LT-046723-92, OSC Judge Simon
July 14 Filed Complaint - Moretti v. Hackensack Water Co. BER-L-08191-92
July 20 Interlocutory Injunction Applied for: Hackensack Water Co. Judge Eichen.
July 22 N. J. v. Moretti. $200 Fine. Carucci Case
July 27 9 a.m., Judge Eichen. Hackensack Water Court Hearing
Aug. 7 Motion. Moretti v. Hackensack Water & Bd. of Regul Commissioners, BER-L-8191-92
2nd Motion: Johnson Case 397-F

YEAR
1992 Detail (cont.)

Aug. 13 Hackensack Water Co., Shut-Off Water at 4 p.m. to Park Court Apts., 391-395 Park St., Hackensack Patricia Farlie Stood By while Water Co. shut water off. Filed Interlocutory Injunction with Appellate Division at 4 p.m. Appel. Judge Kestin, 25 Main St. Hackensack
Aug 14 Oral Argument, Howard Kestin, J.A.D. Appel Div.
Aug 17 Arrested by Hackensack Municipal Court while

addressing Superior Court Judge Patrick Fitzpatrick upon receipt of Order by Appellate Judge Kestin as to notification of tenants receiving subsidies that water is being shut off. Placed in Bergen County Jail for three days.

Aug 19. Landlord Tenant Eviction 397-D, 1:30 p.m. Municipal Court Hearing 9 a.m.

Aug 26 Municipal Court Hackensack Appearance. Carucci Case

Sept 2 N.J. v. Moretti (Patricia Farlie, complainant, water shut-off.(C92-2940, 2948, 2916)

Sept. 9 Trials in LT-048543-92, 397-I
LT-048541-92, 397-F
LT-048542-92, 391-H

Sept. 11 Moretti v. Hackensack Water Co., Bd. of Regulatory Commissioners, BER-L-8191-92. Injunction Applied for by Judge Edward Van Tassle (Died Subsequently)

Sept. 18 LT-Case. 397-D

Sept. 22 Order to Show Cause Hearing, 397-D

Sept. 30 Filed Special Civil Money Damages Case
DC-700124-92. 397-B
DC-049272-92. 391-D
DC-705906-92. 397-F

Note: Trial Notice.Moretti v. Gentile.BER-L-9278-92

Oct. 2 –Went to Hackensack Water Co. Corporate Offices in Harrington Park, with check for $2,950 in interim payment for Water Bill. $11,000 outstanding.

Oct. 7 Hearing. Hackensack Municipal Court. Judge Dinice Farlie: 92-2940; 92-2916, Carucci: 92-2449

Oct. 9 White v. Moretti, 397-C. SC-064413. Deduction from. Security.

Oct. 14 Adjourn Date - Hackensack Water Company, Mun.Ct. S-42-6599;W-337637;W337641 - New Docket No's.

Oct. 20 Moretti v. Gentile, BER-L-9278-92. Pre-Trial

Oct. 23 DC-700124-92. 397-B. Break in by police bent (steel) door.4

Motion Hearing

Oct. 28 Municipal Court Hearings

Carucci v. Moretti 26-90

Farlie - 92-3016

Nov. 2 Hackensack Water Co. Case. 3:30 p.m. Mun. Ct.

YEAR 1992 Detail (cont.)

Nov. 4 " " " ". 9 am Municipal Court.

Nov. 6 Hackensack Municipal Court Appearance, 4C Owners. Motion - 397-B Break-In. Hackensack Police

DC-700124-92. Discovery Motion

Nov. 10 Hospitalized. Acute Bronchitis. Hackensack Medical Center.

Nov. 12 Appearance in Special Civil Part - Law Div. (Landlord-Tenant Court).

LT-050494-92. 391-E

LT-050496-92. 397-G

LT-050493-92. 391-J

LT-050495-92. 397-H

State of NJ v. Moretti. Water Case. C92-3016.

Dec 3. Hackensack Municipal Court. $525 Fine. Jailed in Bergen Count Jail

Dec 4 Moretti v. Zisa, et al. 92-4206(HAA) Judge Harold Ackerman - Motion Sched. in Newark Federal Ct.

Dec 12 Moretti v. Hackensack Water Co. Special Civil Part DC-705907-92. DC-705907-92. 9AM Trial. Judge Polito Cancelled by Hackensack River floding into Bergen County Justice Center Parking lot.

Arraignment 397-D Tenant. Indictment S1642-92-002

Dec 14 Motion Day - U. S. District Court

Moretti v. Zisa, et. al., 92-4206 (HAA)

Dec. 16 LT-051368-92 1:30 p.m. Rm 103

1993 Event

Jan 5 Moretti v. Zisa, et al. Pretrial Conference Room 479, Federal District Court, Newark.

Jan 8 Moretti v. Hackensack Water Co.

DC-705907-92 9 am. Rm. 123. Motion Heard by Judge Polito [Note: Case against water company filed in Superior Court (Judge Vaan Tassle), also filed in Special Civil Part for quick monetary settlement under account. Also filed in Federal District Court (92-4206 Harold A. Ackerman, Judge) Tenant in Apt. 397-D Hackensack Municipal Hearing.

Jan 11 Pre-Trial Superior Court. 397-D Tenant.

Jan 15 DC-700124-92 9 am trial. Rm. 320 Break-in and damage to apartment door. 397-D.

DC-705907-92. Trial Rm 320.

Jan 20 2 Trials all at 1:30 pm - Apts. 397-I, 391-I, 391-J

Jan 25 Motion before Judge Sybil Moses - Aggrieved Party Status - R. 3:5-6

Jan 27 LT-052324-92 (Eviction) - non-payment of rent.

Municipal Court Appearance - Hackensack

Jan 29 Judge Sullivan. Motion to Dismiss 397-D Tenant

Feb. 1 Pre-Trial - 397-D Tenant Sullivan

Filed Case, Federal District Court - DC93-00528

Feb. 3 Filed Habeas Corpus Petition. U.S. District Court Tenant in 397-D

Feb. 4 LT-000301-93 1:30 p.m. 391-E
LT-000300-93 Rm. 123

Fe2b. 10 Carucci v. Moretti
92-2449 Municipal Court Trial

Feb. 11 Moretti v. Gentile and Bd. of Adjustment. Trial
BER-L-009278-92 1:30 p.m.

Feb. 17 N. J. v. Moretti. (Carucci Case) C92-2449 Part II

Feb. 19 Moretti v. Hackensack Water Co., Oral Argument DC-705907-92
Also, Moretti v. Mele, et al., DC625742, Jersey City (auto)

Feb. 22 Ballard v. Moretti, SC-585-93. Judgement entered .against Salvatore Moretti. Summons and complaint Filed by prospective tenant who delivered summons to wrong address, resulting in entry of default due to non-appearance. Entered by Judge Polito.

Feb 24 11 am Municipal Court appearance Part III Carucci case - adjourned. C92-2449

Feb. 26 Appellate Division Motion to Dismiss. Went to Howard Kestin's (J.A.D.) Court, Michael Rychel considered motion brought on behalf of 397-D tenant

March 1 9 am Trial before Judge Sullivan 397-D

March 4 397-I Tenant. Eviction Case. Settlement. 1:30 p.m. 397-D Tenant appeared before Judge Minuskin

March 8 Moretti v. Zisa, Hackensack Water Co., et al., 92-4206 (HAA) Oral Argument in Newark Requested.

March 9 Picked up transcript of proceedings before the Hackensack Municipal Court relating to the termination of water service at Park Court Apts.,

Arrested with transcript in hands. Incarcerated all day in Hackensack jail cell until night.

March 19 Return day of Moretti v. Hackensack Water Co. case, DC-705907-92. Adjourned to April 16, 1993

March 31 Appeal of Assessment to the New Jersey Tax Court, File Today with copy to Bergen County Tax Board.

April 5 SC-001574-93. Trial before Judge Polito. 397-J

April 7 Hackensack Municipal Court. Carucci v. Moretti. 92-2449

April 8 Arraignment of tenant from 397-D. Before Judge Sybil Moses Rm 307

April 12 Oral Argument. Federal District Court. Newark. 10 a.m. 92-4206 10 am 2Addressed both Ackerman and Magistrate Chesler.

April 14 LT-002417-93 Tenant in Apartment 391-E. Room 123. Judge Polito

April 16 Ballard v. Moretti, SC-585-93.
Motion to set aside Default.
Moretti v. Hackensack Water Co., DC-705903-92
Judge Koblitz, newly elevated to judgeship, dismissed the case.

April 19 Motion - Moretti v. Hackensack Water Co., DC-705907-92. Judge Polito Transferred out.

April 21 9 am Hackensack Municipal Court. Docket No.92-2449 Carucci v. Moretti

April 23 Moretti v. Mele. Proof Hearing. Hudson County. Jersey City

April 29 Scheduling Conference. 10:30 a.m. Magistrate Chesler.

May 5 Tenant in Apt 397-D Appearance Hackensack Municipal Court S659173 Carucci Case Dismissed due to

lack of prosecution

May 10 Motion to Dismiss. Federal Case. Moretti v. Dinice et al., 93-528. Attended Hearings on Motions for oral argument in Newark Federal Court House

May 14 Motion for Reconsideration, Moretti v. Hackensack Water Co., DC-705907-93, Judge Koblitz Moretti v. Fields & BCBSS, 4327-93. Adjourned to June 11, 3:30 pm

May 18 Peremptory Trial Date, Ballard Case, SC-585-93

May 24 Motion to Dismiss Moretti v. Dinice, et al.,93-528

May 26 397-J - LT-3755-93. Eviction - landlord tenant case 397-G - LT-3751-93. " " " "

June 2 LT-3869-93, 397-I. Rent & Scheduling Conference.

June 10 LT-4151-93 Judge Troast. Rm 314. 397-D

June 11 Motions heard by Judge Koblitz, former lawyer for tenant in apt. 397-D Moretti v. Hackensack Water Co., DC-705907-92 3:30

Moretti v. Fields, 4327-93.

June 17 Judge Troast, Continuance on case LT-4151-93, 397-D

App. 72

MARKET DATA FROM THE CITY OF HACKENSACK, N.J. , Source: SR1-A Form in Hackensack 1991-1994

Sales at 281 Park Street [Park Street Condominiums]
1991 Sales (on condo units)
Unit 5-E. Price: $25,000. Sheriff to Spencer Savings & Loan
Unit 3-G. Price: $35,000. Sheriff to Spencer Savings
(Assessment: L $14,800 + I $73,900 = $88,700.)
Unit 5-B. Price: $100. Sheriff to Howard Savings.
Deed dated: 9/25/92. SR1-A - 2562282
Assessed: L $14,800 + I $73,900 = $88,700
Unit 5-C. Deed Book 7600. P. 298. Date 2/5/93. Price $100
Assessment Total $66,500.Sheriff to First Fidelity Bank
Unit Deed Bk 7610, P. 414. 4/16/93. Price $100.
Assessed $14,800 + I$51,700 = $66,500.
Sheriff to First Fidelity Bank.
Unit Bk 7625, P. 14, Date - 6/25/93. Sheriff to First Fidelity Bank. Assessed $66,500. Price $0.
Classification Residence. NU #4. Serial No. 2902988
Unit 2C Bk. 7626 P. 227. 6/18/93. Sheriff to Spencer Savings. Assessed $66,500. Price - $100.
Unit 2F Bk. 7627, P. 214. Date - 7/2/93. Sheriff to Lakeview Savings And Loan, Price $100. Assessed $64,100. Serial No. 2903326
Unit 3G Book 7634, P. 257. Spencer Savings to YAZDI, Assessed $135,400. Price - $124,000 NU 13 (Bankruptcy)
Unit 4F Bk. 7636. P. 752. Date 9/7/93. South Bergen Saavings to Allford. Price $32,000. Assessed $64,100.
Not Used (nu) #13. Bankruptcy.
Unit 2F Bk 7649, P. 17. 10/29/73. Assessed $64,100.

Price 45,000 Serial No. 2908159. NU #29: "Materially depreciated after assessing date but prior to sale. Grantor attorney Salvatore L. Borelli agrees with the statement. (s) Charles Mason. Mun. Representative.

Unit 5L Book 7658. P. 362. 11/30/93. Yazdi to Sofla. Serial No. 2910290 Assessed $60,500 Price 35,000. NU - #13.

Unit 4C Federal Deposit Insurance Corp. to Lamprect. Price$25,000Deed 12/16/93. Ser#2913240,Bk.76696P. 710

Unit 2L Sheriff to Lakeview Savings Price $100. Assessed $60,500. NU #13. Db.7680, p. 190, 2/25/94. Serial No. 2915550

Unit 5B F.D.I.C. Feygin. Db. 7681. P. 823. 3/1/94. Serial No. 2915566. Price $30,000. Assessed 66,500.

Unit 5J Sheriff to Lakeview Savings. Db. 7692 P 577, 2/25/94.Price - $100. Assessed $59.800. NU #12. Ser#2917972

Unit 2A Sheriff to Lakeview Savings. Db.7692,P593. Price $100 Assessed $64,500. Ser. # 2917973

Unit 5D Sheriff to Federal Deposit Insurance Corp.,Db 7698. P. 768. Date 3/28/94. Price $1. Assessed $66,500. Serial No. 2919244. NU #13

Unit 2L Deed Book 7701, P 87. 5/26/94. Price $40,000 Assessed $60,500. Serial No. 2911846

Unit 5D Deed Book 7703, P.817, 5/24/94. Price - $24,000. Assessment $66,500. Serial No. 2921856

Unit 2A Lakeview Savings to Pinter. Price $31,000 Assessed $64,500. NU #26. Serial No. 2919754

Unit 5J Price $35,000. Assessed $59,800. Price $35,000

NU #26. Serial No. 2919755

Unit 4B Sheriff Terhune to Lakeview Savings, Price $100. Price $35,000. Assessed $66,500. NU - #26. Serial No. 2919756, Db 7704 P. 346. 3/11/94.

Unit 3C Spencer Savings to Shearson Lehman Mtge. Corp. Db. 7704, P. 585. 9/29/93. Price $100. Assess. $66,500 NU #25. Serial Noo. 2919760

Unit 3C GE Capitol Mtg. Services of California to Lagharifar, Price $34,900. Assessed $66,500. Serial #3379649

Unit 2E Price - Blank. Db. 7722, P. 384. 6/29/94. Resolution Trust Corp. to Joyce Olivieri, Assessed $66,500 , NU #26. Serial No. 3379836.

Unit 2D Price 29,000. Resolution Trust Co. to James Olivieri. Assessed $66,500. Db. 7722. O. 841. 6/13/94. Serial No.3379837.

300 Park Street Condominiums

Unit 2D Deed Book 7581, P. 500. 1/15/93. Price $100. Assessed 14,600+58,800=$73,400. Serial No. 2562543

Additional Sales Listed of Note

Sales of Seventy-Two Unit Apartment House at 370 Park Street,Hackensack, N.J. Cocoziello to Frank Alster. Deed Book 7489, P. 916.Dated: 11/20/91. Recorded 1/2/92. Block 415 Lot 1 Apartment Use - 4C. Price - $0. Assessed: Land $1,260,000. Imp. = $1,848,000 Net = $3,108,000

Footnotes:

State of N.J. Dept. of the Treasury Division of Taxation,

Local property Tax Bureau, Trenton, NJ.

Categroies of Non-Usable Deed Transactions (July 1, 1969 Rev.) Reg. 18:12-1

The deed tranaction of the following categories are not usable in determining assessment-sales ratios pursuant to Chapter 86, Laws of 1954. (N.J.S.A. 54:1-35.1 et. seq.)

N.U. #12. Sheriff's sales

N.U. #13. Sales in proceedings in bankruptcy, receivership or assignment for the benefit of creditors and dissolution or liquidation sales.